

1894-072 Chancery Causes: Pennington Cap Improvement Co] vs. George W. Russell or  
Lee Co. George W. Russell vs. Pennington Cap Improvement Co]

Morgan, Newman, Harris, Zion, Madden, Garrison, Skaggs, Burke,  
Stout

CA-Contract Dispute  
T-Property

Will: 1846 : James Newman : Lee County

-Deed



To the Hon. H. S. K. Morrison, Judge of the  
Circuit Court for Lee County.

Humbly Complaining, your orator,  
the Pennington's Gap Improvement Com-  
pany, a corporation organized and exist-  
ing under and by virtue of the laws of the  
State of Virginia, respectfully sheweth unto  
your honor that on or about the day  
of 1854, one James Newman  
departed this life intestate, seized and pos-  
sessed of a valuable tract of land lying  
and being in Lee County on Lane Creek,  
at the present town of Pennington Gap,  
and bounded as appears in a paper here-  
with filed marked "A"; that said James on  
his death left surviving, his wife, Cath-  
arine, and nine children as his heirs at  
law to wit: Jefferson J. Newman, A. J.  
Newman, Joseph Newman, Wayman  
Newman, Patterson Newman, Samuel  
Newman, Mary Newman, Lucretia Har-  
ris the wife of James A. Harris and Harriet  
Harris the wife of Willis Harris to whom said  
tract of land descended; that soon after  
the death of said James, to wit on the  
day of 1855, the said Wayman New-  
man departed this life intestate seized  
and possessed of a one-ninth undivided  
interest in said James Newman tract  
of land; that the said Wayman, never having  
been married, left surviving him as his heirs  
at law his mother, the said Catharine, and his



said brothers and sisters and to whom his  
said interests in said land passed; that said  
Widow and said eight children of said  
James as heirs at law of the said James  
and Hayman Newman at divers and dif-  
erent times sold and conveyed or attempted  
to sell and convey to various parties  
their respective interests in and to said  
tract of land; that the several conveyances  
of all of said parties were sufficient to  
pass their respective interests in and to said  
tract of land, except those of Lucretia Har-  
ris and Harriett Harris, - their deeds were  
insufficient to pass their interest and ti-  
tle in and to said tract of land, because at  
the time they attempted to convey, they were  
each married women, and the officer  
taking their acknowledgments did not  
do so, and certify the same, as the law  
as it was then required should be taken  
and certified. See exhibits "B" & "C" which  
are copies of the respective deeds of said  
Lucretia and Harriett Harris, here filed and  
prayed to be taken as a part of this bill.

Your orator will further show unto  
your honor that by virtue of their several pur-  
chases and conveyances and attempted con-  
veyances Patterson Jones, Nimrod C. Ely  
and C. B. Howard believing themselves to be  
entitled to the whole of said Newman tract  
of land, about February, 1867, mutually  
divided and partitioned said Newman tract



of land among themselves and made  
to each other deeds to the respective parts  
assigned to each; that by said mutual par-  
tition said Howard was assigned and deeded  
74 acres of said Newman tract lying on the  
North side of said Creek, said Ely 72 acres  
of the same also on the North side of said  
Creek and Patterson 26 acres of  
the said tract on the South side of said  
Creek; that said Ely, Zion and Howard  
immediately after said partition, each  
went into the possession of their respective  
parts assigned and deeded as aforesaid; that  
soon after said partition was made said  
Nimrod C. Ely departed this life intestate  
and seized and possessed of said portion  
of said land; that he left surviving him  
five children as his heirs at law and  
to whom his said portion of said land  
passed; that said C. B. Howard after  
said Ely's death purchased and took con-  
veyances to himself of four of said Ely's  
children's interest in said land, he having  
before that time married one of said Ely's  
daughters; thus as they thought, said  
Howard and his wife, that they were  
the incontestable owners of the whole  
of said Newman farm lying on the North-  
ern side of said Creek.

Your orator will further repre-  
sent and charge, that the said Patter-  
son Zion and his wife reserving to them



seloes a life estate in the same, on  
the 22<sup>th</sup> day of June, 1877, conveyed said 26  
acres of said Newman land, together with  
some other land, to Geo. H. Russell and Re-  
becca J. his wife, who were the son-in-  
law and daughter of said Zim & wife;  
that said Zim and his wife are now  
both dead; that after the date of said  
last named deed, the said Rebecca J.  
Russell died intestate and seized of  
whatever interest in said 26 acres of land  
that the deed of Zim & wife vested in  
her; that she left surviving her as  
her heirs at law three infant chil-  
dren, to wit: Edmund H. Russell, Doris  
J. Russell and Randa L. Russell; that  
said Patterson Zim at and before the  
making and delivery of said deed of  
James A. and his wife Lucretia Harris,  
to him had fully paid for said land, and  
immediately went into the possession  
thereof and continued in the exclusive  
possession of said 26 acres until his death  
and had said Lucretia's deed put on  
record in this county in the proper  
clerk's office thereof; and that said Geo.  
H. Russell and said three infant  
children of the said Rebecca are now  
in the possession of said 26 acres of land,  
as of right they ought to be, because  
the said James A. Harris the husband  
of the said Lucretia Harris is still



living, and said deed of said James & Lucretia being sufficient, and did pass all rights of the said James in and to said land; that the said James and Lucretia at the time said deed was made to said Zion were lawfully married to each other; that they had issue born alive and that the said James survived the said Lucretia.

Your notes will further represent and show unto your Honor that on the day of May, 1890, it purchased from said C. B. Howard & wife the whole of said Newman tract of land lying on the North Side of said Lane creek, except a small portion thereof about six acres, near the depot at Punnington Gap, and some 20 acres on the north western corner thereof, which said Howard and wife had previously sold to J. M. Cecil and J. E. Burk; that it is the owner of whatever interest the said Harriet Harris may have in said land; that after the date of said attempted deed of said Lucretia Harris, on the day of 18, she, the said Lucretia died intestate, seized of her said undivided interest in the said Newman tract of land as an heir of the said James & Maryann Newman; that the said Lucretia left surviving her as her heirs at law four children, to wit: Richard Harris, Nancy Harris who married one Cowan Jesse, Francis M. Harris who also



married one Charles S. ~~Salvin~~ and Sarah H. Madden  
who also married one <sup>Madden who is now dead</sup>  
that your orator on the 28 day of January,  
1891 brought and took from said four chil-  
dren a deed for all their interest in  
the said Newman tract of land, as well  
appear from their deed here filed marked  
& prayed to be considered.

The premises aforesaid considered  
your orator is advised that it is entitled  
to the reversion in said 26 acres now in  
the possession of said Russell and his  
children; that by force of an act of  
the General assembly of Va., approved  
on the 29th day of Feb., 1892, your orator  
is required to institute proceedings, within two  
years next after the passage of said act, to have  
the said Severin's deed to said Zion in-  
spected, and the validity thereof determined,  
and the rights of all persons interested fully  
ascertained, or forever after stand and be  
barred from asserting any claim to said  
land.

In the premises your orator is advised  
it has rights capable of being asserted  
and enforced only through a court of  
equity; - its prayer therefore is that  
your honor take cognizance of this its  
cause of complaint; that the said Geo.  
H. Russell, Emmet H. Russell, Doris  
J. Russell and Rando L. Russell be made  
parties defendants to this bill of Complaint;



That they each be required to fully and  
completely answer on oath each and  
every allegation of this bill as if they were  
here specially interrogated; that for  
said Emmet St., David L., & Rando L. Rus-  
sell, they being infants, a guardian ad  
litem be appointed to defend them in  
this matter; that on a hearing of  
this cause an order be pronounced  
herein impeaching the validity of said  
Secretia Harris' deed to said Zion, and  
that said defendants be deemed the use,  
occupation and possession of said  
26 acres of land for and during the  
natural life of the said James A. Har-  
ris and your orator the reversion in  
fee to the said 26 acres; And that all  
other, further and General relief be  
granted your orator as the nature of its  
cause and good conscience may require.  
And it will ever pray &c. May Sp.  
issue &c.

Thompson & Sweet ~~Attorneys~~  
J. G.



Pennington's Gap  
Improvements

Defts costs  
C 4.74 Pd  
S 2.00 PA  
G.A.L. 5.00 Paid  
Co C 2.00 Paid  
\$13.74

Defts Cost on  
Cross Bill &c  
C 4.75  
S 1.50  
Depts 8.50  
G.A.L. 5.00  
\$19.75

vs. } Bill in Chanc  
Geo. W. Russell et al  
Filed at 1st October Rules 1893  
A.B. Munsey  
Clerk

1893 1st Octo. Rules Bill  
filed Sp. Exd. Aud.  
G.A.L. filed & D. nisi  
" 2nd Octo Rules J. N. Conf'd  
& Cause set for hearing  
by Plaintiff  
" Nov. Decree & Cont'd  
1894 Mr. Decree & Cont'd  
" June Decree final  
Order Book 4  
page 1.

177 60



Circuit Court for Lee County.

Pennington Exp. Inf. Co  
v. S.

Geo. H. Russell - E. H. Russell - D. Ida Russell  
and Paul L. Russell } In Chancery

The Answer of Emek H. Russell, D. Ida Russell, and Paul L. Russell, infants under the age of 21 years by R. L. Pennington, their Guardian ad litem to defend them in this suit, and the answer of the said R. L. Pennington guardian ad litem of the said <sup>infants</sup> defendant to a bill exhibited against said infants and an other in the Chancery Court of the said County.

For answer to said bill the said infant defendants by their guardian ad litem answer and say that being of tender years they do not know what their true interests are in relation to the subject matter of said bill, nor <sup>do</sup> they know whether the ~~proposed~~ <sup>stipulations</sup> therein contained are true or not. They confide the <sup>care of</sup> ~~protection~~ of their interest therein to the Court. And the said guardian ad litem of the said infant defendants for answer to the said bill answer and say that he knows nothing as to the truth or falsity



of the statements in the bill con-  
tained. He prays full protec-  
tion for the infant defendant  
And now having fully answered  
these defendant's pray to be hence  
dismissed with their costs &c.

Emmet H. Russell }  
A. Lida Russell } By P. L. Pennington  
Linda L. Russell } Guardian ad litem

State of Virginia }  
County of Lee } s.s.:

Sworn before me in my  
county of said by P. L. Pennington  
guardian ad litem as aforesaid  
this the day of Oct 1893 -



Pennington & Co.

N.S. of Guardian as

George Russell & Co.

1893 2 October Rules

this answer filed

A.B. Munnice

Guardian for  
\$5000

P.L. Pennington Guardian  
as before



Lee Circuit Court.

The Pennington Gap Improvement Co. }

vs. }

George W. Russell et al }

Demurrer, Answer and Cross

Bill of Geo. W. Russell.

The demurrer, answer and cross bill of Geo. W. Russell to a bill in chancery exhibited in ~~Lee Circuit Court~~ against him and others by the Pennington Gap Improvement Company, in Circuit Court for Lee County, Virginia.

For demurrer, respondent says that said bill is not sufficient in law, whereof he prays judgment.

For answer and cross-bill, respondent makes admissions, denials and charges as follows:-

Respondent admits that James Newman died seised of a tract of land of about ~~420~~ acres, located as described in said bill, and left surviving his wife, Catherine, and the <sup>said</sup> nine children named in the bill; but respondent denies that said James Newman died intestate, or that the said land descended to his heirs at law. On the contrary the said James Newman died in 1846 and left a valid will whereby he devised said land, and the right of possession and use thereof, to his wife Catherine until his youngest child, Mary, also known as Polly, should become of lawful age, the remainder to go to his children in equal undivided ownership, or in case of disagreement to be sold and the proceeds divided among said children. A certified copy of said will, which was duly proven and admitted to probate, is herewith filed as exhibit No. 1, and is prayed to be treated as a part hereof. And respondent here states and charges that under said will Catherine, or her ven-



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dees or licences, one of whom was Patterson Zion, took and held actual possession of said land and of the whole of it from the death of James Newman until the said Mary, or Polly, Newman attained her majority, which was in 1865 or 1866.

Respondent admits that Wayman Newman died unmarried and intestate, leaving surviving his mother and <sup>the</sup> eight brothers and sisters, <sup>mentioned in said bill</sup> and states that he died after December 2nd, 1857, and prior to December 29th, 1860; but the exact date is unknown to him. Respondent further admits that the undivided interest of J. J., A. J., Joseph, Patterson, Samuel, and Mary Newman as devisees under the will of James Newman, and the undivided interests of the aforesaid parties as well as that of Catherine Newman as heirs of Wayman Newman in said land were conveyed to Nimrod C. Ely and C. B. Howard, which conveyances were made prior to February 23rd, 1867. It is also admitted that the deed whereby Harriett Harris, attempted to convey her interest in said land to J. J. Newman --- who in turn conveyed the same to C. B. Howard --- was imperfectly certified.

Respondent here states that James Harris and Lucretia his wife, who was Lucretia Newman and one of the devisees of James Newman, executed and delivered to Patterson Zion the deed filed as Exhibit "B.", which deed was made prior to the death of Wayman Newman, and did not pass or attempt to pass the interest subsequently acquired by the death of said Wayman. This deed, Exhibit "B.", it will be seen passed or attempted to pass simply the undivided interest of the said grantors in the whole tract.

Respondent further admits the execution and delivery of mutual deeds by and between Ely, Howard and Zion as stated in said bill; and admits that each went into possession of his



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several part of the tract at the time stated; but he denies the inference that Zion had not previously been in possession of the interest supposed to have been conveyed to him by James and Lucretia Harris. On the contrary it is a fact that said Zion, by consent of Catherine Newman, went into actual possession of said interest in the whole tract immediately on the delivery of the deed to him from James and Lucretia Harris, that is, December 2nd, 1857. And respondent admits to be true the statement made in the bill that, Zion went into possession at the time of the execution of the aforesaid deed, but denies that he took possession, claiming to own, ~~at~~ any specific part of said tract. The deed from said Ely and said Howard to said Zion is herewith filed as Exhibit 2, and is prayed to be read and treated as a part hereof.

Respondent says that the allegations of said bill to the effect that complainant has by various conveyances acquired the interest formerly owned by Ely and Howard, and that they owned the interest of all the devisees of Jas. Newman and of the heirs of Wayman Newman except those of Harriett Harris and of Lucretia Harris, are probably true; but that he is not sufficiently informed to be able to admit thatn they are, and calls for proof thereof.

Respondent admits that Zion and wife are dead; that they, subject to their life estate, conveyed the 26 acres purchased from Ely & Howard to respondent and his late wife; that the latter died intestate, and that he and his co-defendants are now in possession thereof, claiming to own the whole.

He also states that he and his co-defendants, and those under whom they claim, have been in quiet, undisturbed, <sup>continuous</sup> actual, exclusive, <sup>adverse</sup> peaceable, and notorious possession of said 26 acres



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tract since the date of the deed from Ely and Howard to Patterson Zion --- February 23rd, 1867 ---, and that the said Zion was in the like possession of the interest in the whole Newman tract, supposed to have been conveyed to him by the deed of James and Lucretia Harris continuously from December 2nd, 1857 until the aforesaid partition was made on February 23rd, 1867.

Respondent denies that complainant is the owner of the interest of Harriett Harris in the <sup>said 26 acre</sup> ~~tract~~ tract.

Further answering, respondent states and charges that neither James nor Lucretia Harris were ever seised in fact of any interest in the said Newman tract; that the said James Harris never reduced to possession the interest derived under the will of James Newman; that Lucretia <sup>Harris</sup> ~~Newman~~ died in 1870, leaving surviving her, James Harris, her Husband, who is still alive, and the children mentioned in complainant's bill, the youngest of whom is Richard Harris, who was born in 1860 or in the first quarter of the year 1861.

Catherine Newman, the widow of James Newman, died in <sup>1885</sup> 1885. The interests of Mary Newman, (both that derived under her father's will and that derived as the heir at law of Wayman Newman) were conveyed to Joseph Newman by deed dated <sup>28<sup>th</sup></sup> 28<sup>th</sup> day of <sup>Nov</sup> ~~Nov~~, 1866, and prior to February 13th, 1868. Said deed is herewith filed as Exhibit 3, and is prayed to be treated as a part hereof.

Respondent is & advised that the deed of James and Lucretia Harris to Zion, is void as to the said Lucretia except as color of title; that James Harris, never having reduced the land to possession (which is alleged to be a fact) was never and is not now entitled to curtesy in the interest supposed to



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have been conveyed by said deed, and that said deed is a nullity as to him so far as it was intended to convey his curtesy right in the said interest.

Respondent is further advised that as he and his co-~~RESPONDENTS~~ defendants, and his and their predecessors, have had the possession required by law of the above mentioned 26 acre tract since February 23rd, 1867, the right of entry and of action of claimants & under all of the devisees of James Newman and heirs of Wayman Newman are barred by limitation. And being so advised, and here stating that the right of action<sup>and of entry</sup> of all the devisees of James Newman and the heirs of Wayman Newman<sup>accrued</sup> ~~acquired~~ more than the time required by law to bar such right of action<sup>and entry</sup> before the institution of this suit, respondent specially pleads and relies on the several statutes applicable known as the Statutes of Limitation.

Further answering respondent states that in the fall of 1890 (at which time respondent was ignorant of many of the facts above stated, and thought that the claims of the heirs of Lucretia Harris were valid) the aforesaid James Harris, the husband of said Lucretia, was in Lee County, Virginia, --- having come from his home in Kentucky for the purpose of looking after the interests of his children --- and was proposing to sell the interest of the said heirs of Lucretia Harris in the Newman land. At this time respondent was told that Mr. E. W. Pennington, who was acting as the agent of the plaintiff Company, had proposed to purchase the said interest of the heirs of Lucretia Harris, for the joint benefit of all concerned. Thereupon & at once respondent saw the said Pennington and it was agreed between them that Pennington should obtain a conveyance of said interest for the benefit of all the



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then owners of parts of the Newman tract, and that the cost of said conveyance should be equitably proportioned. At this time respondent was considering the advisability of purchasing from said heirs a release of their supposed claim on his 26 acres tract, and he here states and charges that but for said agreement with the agent of complainant he would have done so.

Shortly after this the said Pennington prepared and sent to Kentucky a deed for the said heirs to execute, but for some reason it was not then executed; but the original agreement was understood by respondent to remain in full force. Nothing further was done, unless it was done by correspondence conducted by the said Pennington and James Harris, until ~~1891~~ in the year 1891, when respondent saw Pennington, who was about to start to Kentucky for the purpose of procuring the said deed. At this time respondent supposed of course the original agreement was in effect, but to make sure of it, asked Pennington if his Company was going to let him share in the benefit of the expected conveyance on payment of his pro rata of the expense, and was told by him that he supposed the Company would do so; that he, (Pennington) was perfectly willing that respondent should.

Shortly after the return of Pennington from Kentucky, where he got the deed from Lucretia Harris' heirs and James Harris filed with the bill, respondent went to him and stated that he wanted a release from complainant and was willing and able to pay his proportion, as proposed, of the cost. To this Pennington replied that he himself was willing that this should be done, but that a meeting of the Company must be held before its officers could act in the premises. He also told



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respondent that he would let him know when the Company would next meet, that he, (respondent) might present the matter before the meeting. Relying on this statement, and never seriously doubting that complainant would carry out the agreement of its agent, respondent waited patiently --- never having any notice of or invitation to attend any meeting in the mean time --- until the spring of 1893. At this time he ~~sees~~ was informed that at a meeting then recently held (of which he had had no previous intimation) a committee had been appointed to treat with him on the subject of a release and instructed to bring suit if respondent did not pay the sum the committee should fix. Shortly after said meeting respondent met said committee informally, and ascertained that they declined to carry out the agreement made by E. W. Pennington, and demanded of him some \$1500.00 or thereabouts for the release wanted. This respondent refused to pay, and shortly thereafter this suit was instituted.

Respondent here charges that the consideration paid by complainant for said deed was \$350.00, and he here states that he has always been ready, willing and able to comply with his original agreement, and that he now offers to pay his just pro rata of said sum, and also of all other expenses and costs to which said Company was put in obtaining said deed, in consideration of a duly executed release to him and his co-defendants of the interest derived by said deed in and to the aforesaid 26 acre tract.

Wherefore the prayer of respondent is that this his answer be treated as a cross-bill; that The Pennington Gap Improvement Company be made a party defendant hereto and requir-

*Emmett H. Davis, J. & Rando L. Russell*



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ed to answer the allegations hereof, answer under oath being  
~~That a guardian ad litem be appointed for the said business~~  
 hereby waived; that proper process issue; that on a hearing a  
 decree be rendered dismissing complainants bill at its cost,  
 and giving respondent all such other and general relief as may  
 be proper. And respondent will ever pray.

to be signed  
 by W.R.  
 here.

[Signature] Geo. W. Russell,  
 Bullitt & McDowell

Virginia, <sup>Pd.</sup> ~~Lee~~ <sup>Wise</sup> County, to-wit: —

Officer's name  
 & title

This day personally appeared before  
 me, W.C.M. Dowell Jr a notary public  
 for the county & state aforesaid,  
 Geo. W. Russell, whose ~~name is~~  
 Answer is above written, and  
 made oath that the statements con-  
 tained in said answer, so far as  
 made of his own knowledge are  
 true; and so far as made from  
 knowledge or information derived  
 from others, they are believed to be  
 true.

date

Given under my hand  
 this 13<sup>th</sup> day of January 1894

Officer's name  
 " title

W.C.M. Dowell Jr  
W. P. Wise Co Va

Ans. J. T. Pando & Russell who are infants and  
 answer for them



The Pennington Gap Impt. Co

Dem. Answer a  
Cross-bill of  
G. W. Russell

G. W. Russell et al

~~1894 2<sup>nd</sup> Febry Rules~~

~~+ Bill filed 3<sup>rd</sup> Feb  
Exdt & D. Crisi~~

" 1<sup>st</sup> March Rules  
taken last Monday  
in Febry & Crisi

~~Costs & Cause set  
for hearing by 2<sup>nd</sup> Feb~~

1894 ~~the~~ within and  
and cross received and  
filed 2<sup>nd</sup> January Rules

1<sup>st</sup> Febry Rules Sp not 2<sup>nd</sup>

2<sup>nd</sup> " " " "  
1<sup>st</sup> March Rules taken the last  
Monday in Febry Sp not 2<sup>nd</sup>



Pennington's Gap Improvement Co.

VS.

. In Chancery.

George W. Russell et als.

To the Hon. Wm. T. miller, Judge of the Circuit Court  
for Lee County:-

The answer of the Pennington's Gap Improvement Co. to  
the cross bill of the defendant Geo. W. Russell, filed in your  
Honor's said court, on the .....day of February, 1894:-

For anser thereto, or to so much thereof as it is advised  
it should answer said defendant in said cross-bill makes the fol-  
lowing denyals, to witt:-

Respondant admits that the paper, marked exhibit No. 1, filed  
in said cross-bil is a copy of what is on one of the record  
books of the circuit Court of Lee County; but the said Respond-  
ant denyys it to be a will of said James Newman, or a copy from  
the records of said Court, that can be used as an original will  
could be used, because the Court that attempted to admit it to  
probate had not the Jurisdiction to do so, and because the order  
admitting it to probate does not show that the law of wills had  
been complied within order to make it a will of the said Newman.

Your Respondant denyys that said Patterson Zion took posses-  
sion of said land by the consent, arrangement, or agreement of  
said Catherine Newman, the widow of said James Newman, and the  
devisee off her said husband, but on the contrary he took pos-  
session of the same by virtue of his deed from said James and  
Lucretia Harris, who were in the possession of the same at the ~~time~~  
time they sold and conveyed to said Zion, claiming it as their  
ownin right of said Lucretia; your Respondant denyys that at the  
time said deed was made to said Zion by said James and Lucretia  
Harris that the said Catherine had any interest in the said land  
now in controvesy; but on the contrary, if she ever had any inter-  
est in the same, by virtue any will, or otherwise, she had sur-



rendered the same to the said James and Lucretia Harris, -  
and thus the said Harrises were seised in fact of said land be-  
fore they sold the same to said Zion, *and at the time of sale.*

Your respondent denys that the said Russell or any one ~~be~~  
fore him has had possession of the reversion in said land, that as  
alleged in the bill of said respondent, he has only had posses-  
sion of the life esstate of the said James Newman, and that your  
respondent at the death of the said James Harris will be entitled  
to said land.

Your respondent admits that in the fall of the year 1890,  
the said James Harris was in this County trying to sell the inter-  
est of his said children in said land; but it most emphatically  
*with said Russell or any one else*  
denys that it made any agreement, to buy the same for the benefit  
of all those then concerned, or that it would buy the same and let  
the said Russell share in the purchase, -all this matter was wholly  
new to your respondent, it never heard of it before, or any thing  
at all like it, until the answer and cross-bil of the said  
Russell was filed in this cause. It is true that the said respond-  
ent insisted and tried to get the said Russell to purchase in  
said outstanding claims, but he did not do so, so that in order  
to protect its onw rights it procured the deed aforesaid, and it  
would have have made said Russell a deed to the same for its  
costs had he ever asked it, but he never asked it, and it will do  
so yet if he will take it. *pay its costs*  
Said respondent only appointed the com-  
~~mittee to wait upon Mr. Russell to see if it could not get~~  
mittee, spoken of in the cross-bill of said Russell, to wait on  
Mr. Russell to see if it could not get him to compromise the mat-  
*It did not want his land, but its money*  
ter. Your respondent denys said Russell was ignorant of all its  
meetings, but that on the contrary, he knew of severall of its  
meetings, their time and place of meeting. Your respondent never  
thought of buying in the said outstanding rights of the heirs of



said Lucretia until it gave up all hope that the said Russell was ~~not~~ going to do so. Then as it was the owner of <sup>the</sup> balance of the Newman tract, it deemed it proper for it to buy the said outstanding interest of said heirs, *and did so as aforesaid.*

Now having answered as fully as it is advised it is material for it to answer, it prays to be dismissed from this cross-bill, with its reasonable costs in this suit, and that the prayer of its original bill be granted it. And it will ever pray &c.

Pennington's Gap Improvement Company,

Per ..... pd



*Pennington & Co*  
*ad 13*  
*G. W. Russell*

Per .....

Pennington, a (sup) Improvement Company,

of the original bill be entered in. And it will ever be, &c.

bill, with its reasonable costs in this suit, and that the plaintiff  
not having answered as fully as it is advised it is wrong-  
ful interest of said heirs

deemed it proper for it to put the said outstanding  
do so. Then as it was the owner of balance of the  
said Russell was



Pennington Gap Improvement Co. )

vs. )

G. W. Russel et al. )

Answer.

The answer of Emmet H., Doris<sup>8</sup> J. and Rondo L. Russel, infant defendants, by their guardian ad litem to the cross-bill exhibited by G. W. Russel in the above styled suit in Lee Circuit Court, in chancery, against them and the Pennington Gap Improvement Company.

Answering, respondents state that they are infants of tender years, and consequently unable to fully protect their own rights, and therefore their prayer is that the Court will, by proper orders and decrees, guard and care for their rights in the premises.

And having answered as fully as they are advised it is material they should, answering respondents pray that they may be hence dismissed with their costs.

Emmet H. Russel,

Doris J. Russel,

Rondo L. Russel,

By L. S. Duncan

Guardian Ad Litem.

Sworn to before me by L. S. Duncan  
this 17<sup>th</sup> day of January 1894.  
A. B. Munsey Clerk







Pennington Gap Improvement Company

vs {

G. W. Russell et al

This cause came on again this ~~4<sup>th</sup>~~ day  
of June 1894 to be heard on the papers  
formerly read herein and on the  
answer of plaintiff to the cross-  
bill of Geo. W. Russell.  
And whereas it appears to the court  
that an agreement of compromise  
has been entered into, and in part  
executed, whereby defendant  
G. W. Russell has paid to complainant  
the sum of two hundred dollars and  
has executed his note to plain-  
tiff for two hundred dollars more due  
in three months from May 31, 1894,  
and whereby the complainant has  
executed & delivered a deed  
releasing to said G. W. Russell  
all its interest in the 26 acre  
tract in dispute; and whereas  
it has also been agreed that ~~each~~  
complainant shall at its own cost  
dismiss its bill and that G. W.  
Russell shall at his own cost  
dismiss his cross bill, neither side  
to have attorney fees taxed; <sup>each to pay his own costs</sup> it is therefore  
adjudged, ordered and decreed



that complainant's bill be dismissed  
at its own cost; that the Cross bill  
of G. W. Russell be dismissed, at  
his cost; that each of said  
parties pay his own costs; and  
that no attorney fees be taxed  
for or against either party.  
And nothing further appear-  
ing necessary to be done here-  
in it is ordered that this cause  
be stricken from the docket.

Pennington Gap Improvement Co.

Decree  
Final

G. W. Russell et al

Entered on Chy. Ord. Book  
4 P. 1.

Order This  
June 5/1894  
J. W. D. M.



Pennington Gap Impt Co  
vs }

G. W. Russell et al

This cause ~~came~~ again  
came on this day of March 1894 to  
be heard on the papers formerly  
read herein and on the answer  
of defendant G. W. Russell filed  
at 2d January Rules 1894  
exhibits therewith and general  
replecation thereto; and on the  
cross-bill of said G. W.  
Russell and the answer thereto  
of the infant defendants Emmet  
H.; Doris J.; and Rondo L. Russell  
by C. P. Duncan their guardian  
ad litem, and on the appearance  
to said cross-bill by Pennington  
Gap Improvement Company,  
and on the dispositions taken in  
behalf of said G. W. Russell  
and was argued by counsel where-  
upon it is adjudged ordered and  
decreed that said Company shall  
by the 1st rules of May 1894 file  
their answer to said cross-bill,  
and this Cause is continued.



Pennington Gap Imp Co

vs } Decree

H. W. Russell et al  
Entered Chy CB  
Page 594 Mar 15 '94

Entered  
H. W. Russell  
Mar 15 / 894



1 Pennington Gap Imp't Co

2 vs } Decree

3 Geo. W. Russell et al

4 This Cause came on this day  
5 of November 1893 to be heard on complain-  
6 ant's original bill and exhibits filed there-  
7 with, on the answer of the infant defendants  
8 by their guardian ad litem and general  
9 replication thereto; on the demurrer  
10 of defendant Geo. W. Russell and  
11 joinder therein by <sup>or on the affidavit of Geo. W. Russell</sup> complainant,  
12 and was argued by counsel; whereupon  
13 the court being advised, it is adjudged  
14 ordered & decreed that said demurrer  
15 be <sup>overruled</sup> ~~overruled~~; and further leave  
16 is given ~~to defendant to amend his~~  
17 ~~bill, which being done at law,~~  
18 defendant Geo. W. Russell ~~is given~~  
19 ~~leave~~ to file his answer to  
20 said bill at any time until the  
21 expiration of the <sup>24</sup> ~~24~~ January 1894  
22 Rules.

23 And this cause is continued.



Pennington Gap Inpt Co

Dec 11

no }

33 31 30 29 28 27 26 25 24 23 22 21 20 19 18 17 16 15 14 13 12 11 10 9 8 7 6 5 4 3 2 1

G. W. Russell et al  
Entered Ch. D. B. p. 528  
Nov 14 1893

Enter  
H. A. K. M.

Nov 14/93



The depositions of G. W. Russell, Susan Garrison,  
J. M. Zion, J. D. Skaggs, A. J. Newman,  
Mrs J. J. Newman, Mrs E. Burke, A. M. Stout, Chas  
Garrison taken before W. K. Hopkins,  
Notary Public for Lee Co. Va on July 6, 1894  
pursuant to annexed noticed between  
9 A. M & 6 P. M, at the office of  
E. W. Pennington, in the town of Pen-  
nington Gap, Va the place of taking  
being changed by consent - to be  
read as evidence in behalf of  
defendants in original suit and  
of cross-complainant G. W. Russell in  
the cross suit in the Circuit  
Court in Equity styled "Pennington  
Gap Improvement Co vs G. W. Russell  
et al.

Present E. W. Pennington, Counsel  
for Pennington Gap Improvement Co,  
and H. C. McDowell, Jr atty for G. W.  
Russell.

Dr John E. Burke, a witness of lawful  
age being first duly sworn  
deposes as follows:

State your age & residence.

Ans.

I am going on 79 years

I live now & have lived for the last  
fifty years adjoining the land in dispute  
It appears that James Newm left  
a will whereby he gave the possession  
of his farm to his widow until his  
youngest child "Polly" should



2

1 he of age, the farm then to be divided  
2 among his children or to be sold &  
3 the proceeds divided. Now please  
4 state ~~whether or not the parties carried~~  
5 ~~out the intention of the will.~~ what  
6 was done in regard to carrying  
7 out the provisions of the will?

ans 8 My recollection is indistinct but my  
9 recollection is that the provisions of  
10 the will were carried out. The widow  
11 staid there and used the land for a  
12 long time. I cant tell how long.

3 13 When did Patterson first take  
14 possession of any part of the Newman  
15 tract, before or after the war?

ans 16 I may be wrong about it, but  
17 my recollection is that he took  
18 possession of it before the war.

4 19 When did Polly Newman come of age?

ans 20 I recollect the time she became of  
21 age but I couldnt state it now.

5 22 To assist your memory I will ask  
23 you if it was not in 1865 or 1866,  
24 in ~~other~~ other words a little while  
25 after the close of the war?

ans 26 I expect that is about correct. I think  
27 it was.

6 28 When did Wayman Newman die, and  
29 when did Catherine, the widow of Jas  
30 Newman die?

ans 31 I recollect when Wayman Newman died  
32 but I could not give the date.



5 as to Catherine Newman she left  
the country & I hadn't even heard  
that she was dead.

7 To assist your memory I will ask if  
Wayman Newman did not die in 1808  
or 1809, in other words about 2 years  
before the war broke out?

an I couldn't state the date exactly, but  
it was right about that time I think.

8 Please state the character of Patterson  
Tion's possession.

ans He tended the land as any of us  
other farmers did.

~~State whether or not his possession  
was open, notorious~~

9 Please state the character of his pos-  
session as to its being open, notorious,  
peaceable, continuous, and adverse to  
the claims of any other claimant to the  
land

ans So far as I know and as I recollect  
his possession was open notorious  
peaceable and continuous, and I never  
heard him admit that any other person  
had any right to the land. And for  
my part I never knew that there  
was any adverse claim to the land.  
10 Until what time did he continue to have the  
possession such as you have described  
of the land.

ans He continued possession as long as  
he lived, as far as I know. I think



I am right about that.

11 State whether or not you are the same  
Jno E. Burke who signed Jas Newman's  
will as a witness.

Ans I am.

X Examined

Ques. 1 When did James Newman die?

Ans He died a short time after the will  
was made. he was very low when  
I went thru, this was his last sickness.

Ques. 2 State the age and size of Polly  
and Hayman Newman at the  
time of the death of James Newman.

Ans at the time of Jas Newman's death  
Wayne Newman was very nearly  
grown and Polly Newman was  
some ten or twelve years old at  
that time.

Ques. 3 You speak of James Harris  
& wife moving off, please  
state if they left before or  
after Dec. 2<sup>nd</sup>, 1857. and where  
did they go to.

Ans I do not know. I cannot recollect  
the time. I think he went to  
Sandy Kentucky.

Ques. 4 If you know, state when James  
Harris married Loretta ~~Harris~~  
Newman?

Ans. I think it was a while but not  
very long after Jas Newman's death.

Ques. 5 State where James Harris & his wife



lived after their marriage, until they left this country.

Ans. I am not certain. But I think they lived with the widow Catherine a little while, at last, this was on the old Jas<sup>s</sup> Newman farm. And also on the south side of cane creek on a part of the Jas<sup>s</sup> Newman farm adjoining my land. And at a point near to my land.

Ques. 6 Do you remember how long said Harris wife lived at the point last named?

Ans. I do not know. I also remember of him living on the Newman farm in a house not far from where the old Charly Garrison house stood.

Ques. 7 Do you remember said Harris at any time after the death of said James Newman was cultivating any of the Newman farms south of Cane Creek, or any other portion of the same.

Ans. I have no positive recollection about it but I do remember that he cultivated & had a little crop very nearly ever year while he lived here.

Ques. 8 Can you say that said Patterson <sup>son</sup> took possession of the land in controversy, in any other way than by virtue of his said deed from said Harris wife?



Ans. I couldnt state that he held possion in any other way, it was always my understanding that he ~~held~~ possion under that deed.

Ques. 9. State whether Patterson Zion ever went into the possession of any part of the land in controversy until after the date of his purchase ~~and~~ from said Harris wife.

Ans. My recollection is that he never went into possion of the land until after he bought it.

Ques. 10. Did you ever know of said Zion paying any rents on the land in controversy to any person?

Ans. I never did.

Ques. 11. You have spoken of the Charley Garrison house, please state where it was situated, whether or not on the land in controversy.

Ans. My recollection is that it was on the land in controversy.

Ques. 12. You spoke of the widow Catherine Keoman leaving the country, I will ask you to state when she left whether she did not leave with or about the time said Harris wife left the country.

Ans. I cant tell exactly, but I think it was close about the time Haris left.

Re-direct

1 You have said that you could not



7  
exactly state the time that James Harris wife left Virginia. To refresh your memory I will ask you if it was not very shortly after the date of the deed from Jas Harris & wife to Patterson Zion.

Ans I cant say positive. It might have been.

2 Was not the sale to Zion made in anticipation of & with the intention of moving to Kentucky.

Ans I think he did. It was close about the time he made the deed.

3 If under Jas Newmans will, his widow had possession of the land until Polly came of age, how did Jas Harris come to be farming or living on it at the time you have mentioned.

Ans I am not certain about it, but I think he rented it from the old lady Catherine.

4 Then as I understand you all the possession that Jas Harris and wife had was as renters from Catherine and before Polly came of age. Am I right?

Ans That would be my recollection about it but I may be wrong.

5 You have said that Polly was about 10 or 12 years of age when Jas Newman died, & verballly during the course



Q This examination you have said that she might have been younger. Please state your present best idea of her age at that time.

Ans Since I have reflected on it I don't think she was as old as I first had supposed.

Q You have stated that Patterson Zion went into possession at the time he got the deed from Jas Harris & wife, now this was before Polly came of age & while the widow Catherine still had the right to the possession. Can you account for this

Ans No.

Q To assist your recollection I will ask you if Zion did not in some way buy from Catherine Newman a right to possession up to the time that Polly came of age.

Ans I think Catherine sold her right to some one, but I don't say to whom. Further this deponent saith not.

J. E. <sup>Chas</sup> Burt  
Witness

John F. Skaggs another witness of lawful age having been first duly sworn testifies as follows:

1 State your age, residence & occupation.

Ans I am 40 years old, reside at Bennington Gap, Business Genl. Merchant.



2 Please state what you know about an alleged agreement between the Pennington Gas Improvement Co and deft Geo. W. Russell, looking to a purchase of the claims of James Harris & Lucretia Harris' heirs to the Newman tract.

Ans. <sup>when</sup> we first found that there was defective deeds concerning this land & we went to work to look them up and considering ~~the interest in this matter, mutual, between myself & the Improvement Co.~~ By us I meant myself & J.M. Given as Adm's of the Howard estate.

3 What if any agreement was come to between you & the Co on the matter.

Quo.

This question is objected to because too vague and indeterminate in its meaning and also ~~as~~ irrelevant as to any issue between the parties to this suit.

E. W. Pennington for plffs.

Ans. The agreement <sup>which was made</sup> between Mr E. W. Pennington acting as I understood as agent for the Pennington Gas Improvement Co on the one part, and the Adm's & heirs of the Howard estate, and Geo W Russell of the other part, was that Mr Pennington should for the common benefit of all concerned, procure deeds for the least possible cost, conveying both the



Barrett and Lucie Harris interest  
in the Newman tract. The cost thereof  
to be divided ~~between~~ <sup>between</sup> Russell  
& the Howard estate.

4 why do you say that Mr Pennington acted  
as the agent of the Improvement Co?

Ans Mr Pennington had previous to  
that time examined the titles for  
the Co and had given me a list  
of the deeds necessary to be procured to  
perfect the title of the Howard land  
which had been sold to the Co. It  
occurs to me since talking this matter  
over that there was some talk of  
the Co paying a portion of the cost.  
I think Judge Morgan who was  
treasurer of the Co said that he for  
one was willing ~~that~~ the Co should  
pay a portion of the cost.

\* ~~What if anything~~, This conversation with  
Judge Morgan was not at the  
same place as the conversation with  
Mr Pennington, but might have  
been the same day.

I think portion of this answer as  
to what Judge Morgan should have  
said is objected because no part  
of alleged agreement.

Pennington for ~~pliffs~~

5 What if anything did Mr Pennington  
~~it~~ say at or before the above <sup>the time 84</sup> agreement  
was made <sup>which</sup> ~~which~~ led you to suppose



him to be the agent of the Co.<sup>2</sup>

Ans. He told me that he was getting up the title for the Co, he went on to say I don't know whether it was before or after this time, that if we didn't get up the title the Co would, Please state whether or not Geo. W. Russell was present when the agreement was made & where the conversation was had

Ans. He was present; in the Circuit Clerk's office at Jonesville.

7 How was the cost of getting the deeds to be divided as well as you can recollect.

Ans. I don't know.

V Examined

Ques. 1. Where and where was the alleged agreement between you and the ~~company~~ through said ~~Bennington~~ <sup>Mr. Bennett</sup>.

Ans. It was at the Circuit Clerk's office in Jonesville & at the time the old man Harris was in this country looking after the matter.

Ques. 2. State if was not a fact, that you and Mr. Zier as advisors of estate did not ask <sup>Mr. Bennett</sup> ~~me~~ to communicate with the Harris heirs and procure the deeds for the estate you represented.

Ans. It did. because of his familiarity with the matter and his competency.



12

Ques. 3 Did you ever hear me, Pennington, represent to Mr. Geo. St. Russell at any time and place that I would procure the deed of Lucretia Harris' heirs, and that the plaintiff Company would pay a portion or part of the costs of its procurement.

Ans. I don't know that I ever did.

Ques. 4 If you had heard me, Pennington, make such a promise to Mr. Russell, don't you believe you would have remembered it.

Ans. I do.

Ques. 5 State whether or not, if you knew that said Pennington was not made the general agent of said plaintiff until February or March 1891 after said Harris was in this country.

Objected to because immaterial McDowell

Ans.

Ans. Yes. to the best of my knowledge.

Ques. 6 You say at one time you heard said Pennington if you and Russell did not get up the said defective deeds, the Company would do so; will you state the reasons assigned why the Company would have to get up said titles.

Ans. I think the reason was because the land was expected <sup>to</sup> rise in value



13

and as the company was making  
sales of parts thereof it had the perfect  
the title to protect its self.

Ques. Do you remember the amount  
which Russell was agreed to pay  
for said Sincerity Harris' land in  
order to procure a deed from  
them.

Ans I do not.

Ques. When did said Company begin to  
sell its lands as town lots purchas-  
ed from said Howard?

Ans It was in the fall or summer of 1840.  
Further this deponent saith not.

J. H. Skaggs

The deposition of A. M. Stout  
a ~~competent~~ witness of lawful age, having  
been first duly sworn, deposes  
as follows:

1 State your age, residence & occu-  
pation

Ans I am 5-6 years old, & reside at Zion's  
Mill Lu county Va. I am a farmer  
and mechanic.

2 If at any time you rented any part  
of the original James Newman tract  
Please state from whom you  
rented & what year.

Ans I did. I rented from Pallison Zion  
in the year 1842.

3 When did Polly Newman come of



age. Before or after the close of the war?

ans My judgment is that it was after the close of the war.

4 It appears from the copy of James Newman's will filed in this case that his widow Catherine had the right to the possession of all his land until Polly should come of age. Now how did Zion have the right to use or rent any part of said land in 1862

ans He told me that he had bought Catharine's dower and that after Polly came of age that he would have full right to it.

5 Do you mean dower in the legal sense of the term or do you mean that he bought the right that Catherine Newman had under the will to the possession until Polly came of age?

ans I mean the right that she had until Polly came of age.

6 When did James Harris & wife leave this country with reference to the date of their deed to Patterson Zion which was made in 1857.

ans I think they left about the time they made the deed.

### Cross-Examination

quest Where did you live in 1857 Dec. 2<sup>nd</sup>



ans I lived with my father part of the time and part of the time I was about over the county like other young men, and ~~part of the time~~ was over here on cane creek every two or three weeks.

Ques. 2. ~~What property do you now own.~~  
ans I own one cow & some house plunder.

Ques. 3. Where did Patterson Zim take possession of the land in Castroville.  
ans I think it was about the year 185-7.

Ques. 4. In that year did he see you he had bought out Catherine's in the Newman farm.  
ans It was about 3 years before I was married. it was about 185-7.

Ques. 5. In the conversation with Mr. Zim about the purchase of Catherine's interest in said Newman farm, state whether he mentioned having any deed for same, or contract in writing for deed.

ans He did not say whether he did or not.

Now since it appears by this witnesses' evidence that the estate which Patterson Zim purchased from Catherine Newman was for more than five years, and that the question numbered four and answer thereto is objected to be immaterial & irrelevant.  
Pamington ~~for~~ plffs.



Ques. 6 To whom did you pay your rent  
for said land for 1862.

ans to Patterson Zion.

Ques. 7 When was Polly Newman born?

ans I think she was born in about 1845 -  
I only know this from information  
derived from others. I was very well  
acquainted with her and from her  
size & what I knew of her she must  
have been born about 1845.

Ques. 8 When did you first become ac-  
quainted with her.

ans It was about 1856 I think. I knew  
~~her by name~~, before that time, but not  
personally.

Ques. 9 How can you give a legal definition  
of the word dower, if so given it.

ans I think it is a certain amount of  
land laid off for the widow.

Further deponents oath not  
A. M. Stout

The deposition of Mrs Susan Garrison,  
another witness of lawful age, having  
been duly sworn deposes as follows:

1 State your age, residence & the  
name of your father.

ans I was born in 1846. I live near  
the edge of the town of Bennington  
Twp. My father was Patterson Zion.

2 Please state when Polly Newman  
the daughter of James Newman was



born & also whether ~~not was~~  
~~Jas. Newman's~~ ~~you~~ or not she  
 was Jas. Newman's youngest child

Ans. I don't know exactly, but I think  
 she was about two years older  
 than myself. I always heard that  
 she was the youngest child.

3 Please state when if at any time  
 you know of your father, Patterson  
 Zion having ~~had~~ possession of any  
 part of the Jas. Newman farm,  
 also how long he held possession  
 & what sort of possession he had.

Ans. I don't recollect when he first  
 got possession of it. But I recollect  
 working in the field with him  
 during the early part of the war.  
 This field I speak of was part of the  
 old Jas Newman tract. He had  
 possession of it up to his death  
 which was somewhere about 1881.  
 He cultivated it and tended it —  
 regularly every year up to the time  
 of his death.

4 State whether or not his possession was  
 peaceable, undisturbed, continuous, well  
 known, open and ~~adverse~~ or the  
 contrary.

Ans. Yes his possession was peaceable  
 undisturbed, continuous, well known  
 or notorious open & adverse.

~~Cross Examined~~



5 State who has had possession of ~~said~~ the 26 acres conveyed by Patterson  
 10 Zion & wife to G. W. Russell & wife  
 15 from ~~the~~ immediately after the <sup>to the present time</sup> death of Patterson Zion & also  
 20 state whether the possession since  
 25 then has been of the same character  
 30 as that of your father or the contrary.

ans. Geo Russell has had possession  
 10 since my father's death up to the  
 15 present time, as far as I know  
 20 his possession is the same, <sup>character</sup> as that  
 25 of my father. That I have just  
 30 described.

15 I examined.

Ques. 1 How near were you brought up  
 15 to son of Pacey Newman and did you  
 20 visit him and his family often.

ans. We were raised about  $\frac{1}{4}$  of a  
 20 mile apart, I never visited them  
 25 any but frequently saw them pass  
 30 going to mill.

Ques. 2 Do you know the land in controversy,  
 25 if so, is it not a fact that James Harris  
 30 after he married lived on the same  
 35 with his wife. If he did live on the  
 40 land in what year or years was it.

ans. I know the land in controversy  
 25 Jos Harris never lived on it to my  
 30 knowledge. He lived on a tract  
 35 known as the Harris land. which  
 40 was not a part of the old Newman land.



that was about the time he left here.

Ques. 3 State if the Harris tract of land of which you speak does not join the land in controversy on the southern side?

Ans it does.

Ques. 4 While said Harris & wife lived on the land you call the Harris tract, state who used and cultivated that part of the Newman farm lying on the southern side of Cone Creek.

Ans The widow Newman & her son had it in possession. Though I don't remember of seeing any of them work it.

Ques. 5 Do you remember James Harris ever cultivating any the land in controversy before your father bought it.

Ans I do not.

further this deponent saith not.  
Susan Garrison

Also the deposition of Chas Garrison, another witness of lawful age, being first duly sworn deposes as follows:

1 State your age & residence.

Ans I am turned into 54 residence is near Pennington Gap.

2 Please state as nearly as you can when Polly Newman, the youngest child



Q James Newman was born.

Ans I did not know her until she was quite a slip of a girl, but she must have been born in 1844-5.

3 When, if at any time, did Patterson first to your knowledge have possession of any part of the James Newman tract of land.

Ans He had possession of it at the beginning of the war 1841. but I do not know about earlier than that.

4 With reference to the outbreak of the war when did James Harris & wife leave this country, before or after.

Ans They left before the outbreak of the war.

5 State whether or not Jas Harris ever lived on any part of the James Newman land.

Ans If he ever did I don't know if he lived on the so called Harris tract. I never knew of him cultivating any of the Newman farm.  
Cross-Examined.

Ques. 1 When did you first become acquainted with James ~~Newman~~ Harris wife

Ans I became acquainted with Jas Harris before the war but <sup>do not?</sup> remember just when I first knew his wife.

Ques. 2 State whether any of the James Newman heirs ever lived on the Newman farm away from the meadow before the war on



21 at any time during the war.

Ans 2 ~~I remember of Jeff Newman~~

Ans 2 I don't know any thing about it, except that Jeff Newman went from Nimrod Ely for a while some time after the war.

Truette the deponent said not.

Charles <sup>his</sup> Garrison

Also the deposition of Geo. W. Russell, a witness of lawful age, being first duly sworn deposes as follows:

1 State your age, residence, occupation & connection with this case

Ans 3 I am 43 years old reside in Pennington & of my occupation a farmer. I am <sup>a</sup> dependent & cross complainant in this case.

3 In your answer & cross-bill in this case you state that in 1890 Mr E. W. Pennington who was acting on behalf of the complainant Co made a certain agreement with you looking to the purchase of the interest of Jas Harris & the heirs of Lucretia Harris in the Jas Newman land. Please state why you stated that Mr Pennington was the agent of said company & also what the agreement was & whether it was a verbal or written agreement.

Ans 3 I state that he was the agent for



The Laid Company because of  
 the fact that he was <sup>one</sup> of the first  
 men that tried to buy my land  
 previous to the date of Laid's agreement  
 for the Pennington Gas Imp't Co.  
 About May 1890 I sold a part  
 of my land to the Laid Co and  
 I was approached several times by  
 Mr Pennington who acted in  
 the interest of Laid Co with a  
 view to bringing about this sale.  
 I also know that previous to this  
 time Mr Pennington had been  
 active in bringing about the  
 organization of this Co. I had  
 understood that Mr Pennington  
~~had~~ examined the title of the  
 land purchased by the Laid Co  
 previous to the time of the agreement  
 spoken of. The agreement was  
 only verbal. In stating what  
 the agreement was, I will state  
 as follows To the best of my  
 recollection Mr John H. Stagg &  
 J. M. Zion on the street at Jonsville  
~~and~~ told me that they had agreed  
 with Mr Pennington who acted  
 for the Co that they would buy the  
 Harris' his interest; that the Co  
 would pay  $\frac{1}{3}$  of the cost the  
 Howard Estate  $\frac{1}{3}$  of the cost and



that I should pay the balance.  
I told Stragg & thought they had  
put too much of it on me, that  
the cost ought to be divided according  
to the amount each claimed, but  
that nevertheless I was willing to  
go into the arrangement as they had  
proposed. We then went together  
to the Clerk's office and there met Mr  
Pennington. I then learned that  
Mr Pennington had had some  
correspondence with the Harris  
and Jos Harris about the matter.  
I suggested to Mr Pennington  
that there was no need of pushing  
the matter that I did not believe the  
Harris would ever claim the  
land. He replied that the company  
was wanting to sell lots and make  
general warrants and that it  
would rather pay its proportion  
of the cost as suggested than to let  
the matter rest for fear that after  
improvements had been put on  
the land the Harris would demand  
a larger price. It was agreed  
that Mr Pennington should prepare  
a deed from James Harris and  
his children conveying their  
interest to all of us that were  
concerned. The deed was to be for  
the protection of all of us that were



concerned, and that James  
 Harris who was in Jonesville  
 at that time should take the  
 deed back to Kentucky with him  
 and then have it executed: I could  
 state to a certainty what was the  
 price that we then expected to have  
 to pay for the deed, but my —

4

Impression is that it was not  
 far from one hundred dollars.  
 State whether or not Jns F Skaggs, acting  
 for the Howard estate, ever drew a check,  
 which was not cashed, for the consideration  
 for said deed, which check read "payable  
 on delivery of deed", & if so what agreement  
 you had as to paying a part of the  
 sum for which the check was drawn

Ans

J. D. Skaggs told me that he had  
 drawn such a check and would  
 look to me to pay my part of it  
 and I told him that I would do  
 so. However as I understood the  
 Harries refused to make the deed.  
 State what else you know bearing on this  
 subject.

5

Ans

I remember that some members  
 of the said co to wit J. P. Baumgardner  
 and C. A. Russell spoke to me about  
 the deed and said it ought to be  
 fixed up. I told them I was  
 expecting Mr. Cunningham to attend  
 to it, that I thought it best to



have it in the hands of one man & not to confer with each other. The deed they sent to Kentucky they failed to execute.

Thinafter I did not do much about the matter myself until the evening before Mr Pennington himself started to Kentucky to get the deed. I ask him if he knew what the deed was going to cost him, he said they had finally agreed to take \$350<sup>00</sup>, I ask him if he thought the company would let me have the land at what it cost, he said he thought they would, and as far as he was concerned he would.

The next I knew the company had agreed to the land ~~at~~ then again ask Mr Pennington if he thought they would let me have the land at what it cost, he said he was willing but the company would have to meet before we could know what it would do and he promised to let me know when the company would have a meeting and suggest and get the matter settled, but he never let me know of any meeting of the company and I never did know of any meeting until in May 1893, I heard that the Co



had recently held a meeting & had appointed a committee to treat with me and had - instructed them to bring suit against me if I did not come to their terms. When I met the committee they asked me \$1500<sup>00</sup> for a release of my lands and one of the members told me that he thought if I would offer the Co \$1000<sup>00</sup> that the Co would receive it. I refused this and the suit was the result.

The foregoing answer is objected to in so far as it refers to any conversation or matters that occurred between Mr. Russell and the committee of which he speaks, because the whole seems to be a treating with each other with reference to a compromise.

Princeton Jan 24/94

6 It is stated in your answer & cross that ~~you have~~ ever since the agreement was made you have been able, ready & willing to carry out your part of it & that you are ~~now~~ <sup>now</sup> offering & ready & able to pay the price originally agreed on on receipt of a proper release deed. State the facts as to this.

Ans I have been ever since and am now ready <sup>only</sup> to comply with my



agreement.

Examined.

Ques. 1 Did you know or have any information of any meeting of the Co. plaintiff prior to May, 1893 and after ~~the~~ you had learned that said Company had procured a deed from said Harris heirs.

Ans. ~~Ques. 2~~ I know they have had some meetings after I learned that said Company had procured a deed from said Harris heirs, but I do not remember whether I heard of any of ~~the~~ its meetings until they were over. I remember S. E. Shadward at one time in the morning putting up his horse at my house, and this was the time that his brother James Shadward of Knoxville was in Drumington Gap.

Ques. 2 You state, you sold a portion of your land to said Company, state if ~~it~~ <sup>Drumington</sup> was present and closed the trade with you for same.

Ans. No Sir, ~~He~~ was not present.

Ques. 3 You speak of the agreement at Jonesville in the Clerk's office with said Drumington for said Company, state who was present when the agreement and conversation was had as above detailed by you.

Ques. 4 I do not remember any persons but Jas. M. Zion & John H. Shaggo who took any note of it.



Ques. Are you positive that I assented or agreed for said plaintiff to pay one-third of costs in procuring the deed of the Harris heirs.

Ans. It is only my recollection. I am not positive that he did so agree.

Ques. You state in your examination in chief that you were then and always have been and are now willing, ready and able to pay the price ~~the~~ originally agreed on for said Harris land. Please explain what price or sum of money it is you pay for.

Ans. I refer to <sup>the</sup> price ~~talked of~~ <sup>of</sup> land whatever it might <sup>have</sup> cost to procure their deed, in procuring the same not to exceed \$350 - and reasonable and necessary expenses of procuring the same.

Ques. Then, <sup>do</sup> you mean to say, that if the company will tender you its deed for its interest in said land that you will pay it the amount it paid thereon and the necessary expenses it was put to in procuring the deed of said Harris heirs.

Ans. No I do not mean to pay the whole costs & expenses but only one-third thereof.

Ques. Then when you asked said



29

Remington the question ~~about~~  
when he was preparing to go to  
Ky. and on his return therefrom  
with said deed, whether the Company  
would let you have the land at  
costs, you did not mean to pay  
it, if ~~that~~ it had consented to do.

no.

Ans. Yes I think I would have done

so

Ques. ~~that~~ After the alleged promise  
of said Remington to let you know  
of the time and place of <sup>range</sup> ~~the~~ meetings  
of said Company, ~~that~~ when he  
had not done so, state if you  
ever took any steps to find out  
when & where any meeting of said  
Company would be, if so what.

Ans. I don't think I ever did take any  
steps to find out when any meeting  
would be.

Re ax

When you stated in your ex-  
amination in chief that you  
asked said Remington if the  
Company was going to let you  
have the land, did you mean  
was the Company going to convey  
to you the Luerentia Harris interest  
in the whole tract, or did you  
mean to ask if the Company was  
going to let you have her interest



in your 26 acre tract and if  
 you meant the latter did you  
 or not mean to convey the idea  
 that you would pay the Compa-  
 ny what her whole interest in  
 the land cost them, ~~the~~ to wit the  
 whole of the \$350 and expenses  
 or did you mean you would  
 pay them the proportion of the  
 whole sum that 26 acres  
 bears to the whole Newman tract?

Ans. I expected them to make me good title  
 to the whole of the 26 acres, I think  
 I meant to convey to Mr. Huntington  
 at the time the idea to pay the  
 whole of the \$350<sup>00</sup> and expenses  
 if it, <sup>the company</sup> would ~~get~~ make me a re-  
 lease deed to the whole of the 26  
 acres

Ques. State whether or not said Company  
 got any thing from the Howard  
 estate, as a recompense for its  
 expenditure for the said Sueritia  
 Harris heris deed, and if so how  
 much.

Ans. I never heard of it, if it did.  
 And further this deponent saith not.

Geo. W. Russell,

The further taking of these depositions  
 is hereby adjourned until to-morrow  
 at 9 A.M. at A. J. Newman's residence  
 on Straight Creek Lee Co. Va.

Wm. H. Hopkins W.R.



The taking of these depositions is resumed this day 7, 1874 at 9 A.M. at the residence of A. J. Newman, on Straight Creek, Lee County Va.

Present E. W. Pamington, atty for Pamington & Co. Inspt's & H. C. McDowell Jr atty for G. W. Russell.

Mrs A. J. Newman, being duly sworn deposes as follows:

Please state your age, residence whether or not you were acquainted with Lucretia Harris, the wife of Jas Harris & with her family:

Ans. I was born in 1838, and reside in the Pocket County; I knew Lucretia Harris and her family; I first knew her when I was about 12 years and on to her death.

Ques. 2 When did Lucretia Harris die?

Ans. In the latter part of the year 1869.

Ques. 3 Please state, as nearly as you can, when Lucretia Harris' youngest child was born.

Ans. I can't say exactly; but we lived in two or three miles of the Harris when he was home, I had a boy born in ~~January~~ 1861, and her son Richard ~~the~~ youngest living child was born a few months prior to that of my boy.

Ques. 4 When did Jas. Harris wife leave Va.

Ans. He left in Sept. 1858 and stayed a while before.



Ques. 4 When did Sally Newman become of age?

Ans. She became of age a while before <sup>Oct</sup> 1867 when we left Ky. & came back to Va. I can't say how long before.

Ques. 5 When did Hayman Newman die?

Ans. In the spring of 1858.

X<sup>2</sup>.

1 Were you acquainted with that part of old James Newman's farm on the South side of Cone Creek?

Ans. I did

Ques. 2 State whether James Harris & his wife after James Newman's death ever lived on any part of the James Newman farm, if so what part and in what years.

Ans. They did, on the South side of the Creek, in the year 1850. I think they lived there about 2 or 3 years.

Ques. 3 State whether said Jas. Harris, after the death of said Jas. Newman ever cultivated and used any part of the old Jas. Newman farm, if so how long and what part.

Ans. He did, cultivate a field on the North side of Cone Creek and on the N.W. corner of said farm, nearly all the time until he left here in 1858.



And also a small lot lying on the north side of Cave Creek and between the old county road & cave creek. I do not remember of him ever cultivating any part of said farm lying on the south side of cave creek, except a small garden round about the house where he lived. The house near Dr. Burks line on the south west corner of said farms.

~~Direct examination~~

Q

Further the deponent said not  
Martha <sup>husb</sup> Jane Newman  
<sub>infant</sub>

~~Also the deponent~~

The further taking is adjourned to the residence of J. J. Newman.  
Woodstock N. C.

The deposition of J. J. Newman, a witness of lawful age, who <sup>being</sup> first duly sworn deposes as follows:

1. State your name, age, residence & relation to James Newman

ans

My name is J. J. Newman. I am 65-72 years old, resident of Pockett in county Va., Jas Newman was my father.

2

When was your sister Polly Newman born.

ans

she was born to the best of my recollection Nov' 27<sup>th</sup> 1844

3

When did Jas Harries wife leave



there parts to go to Kentucky?

Ans

I left the fall of Sept 1858 and they left a year or more before I did.

4

Where did Jas Harris live the last place before he left Virginia

Ans

He lived on a piece of land adjoining the Jos Newman farm known as the Gilly or Harris tract.

5

I now show you the copy of your father's will filed in this case & ask you whether or not its provisions were carried out by the widow & children

Ans

Yes, My mother lived on the land and had possession of it until she left for Kentucky in 1858, about which time she sold the right to the possession until Polly came of age to Jm Smith. The provisions of the will were carried out.

6

When did your brother Wayman die?

Ans

He was living when the will was made by James & Lucretia Harris to Patterson Zion and he was dead when we left here for Kentucky in Sept 1858, but I can't fix the date exactly.

7

State whether or not you ever leased any of the Newman land & from whom.

Ans

I did. I leased from my Mother until Polly came of age.

Cross-Examined



Ques. 1<sup>st</sup> do you know the land in question, if so state whether James Harris after the death of <sup>any</sup> ~~any~~ <sup>after he had married said</sup> ~~James~~ <sup>his</sup> father ever lived on, used and cultivated any portion of it, if so where did he live thereon, and on what terms, if you know.

Ans Yes I know the land. And I said Harris lived in a house near John E Burks line on the north side of the creek. He cultivated land on both sides of the creek, but I don't know whether he paid rent or not.

Ques. 2 Had the widow turned over any part of the farm <sup>to Harris or his wife</sup> as her <sup>her</sup> wife's share in the farm, if so where and how much.

Ans. Now that I know of, my impression is that she just let him tend the land without pay.

Ques. 3 When did you make your lease of which you speak of ever written?

Ans. I think somewhere about the year 1863, though I am not positive as to this date.

Ques 4 What did you pay her for this lease, if any thing?

Ans I don't know. I gave her a gray mare. and I know that I cleared some land inside the line by way of paying rent. I used to have paid her \$100. +



Ques. 5 I gave my mother the <sup>gray</sup> ~~meat~~ instead.  
For what length of time did you make  
said lease.

Ans. 4 Untill my sister Polly came of age.  
The lease covered about 25 acres on the  
North side of the creek.

Ques. 6 Do you know whether Patterson  
Gion ever paid your mother any  
thing or made any arrangement  
with her, by which he took posses-  
sion of the land south of the creek,  
immediately after his purchase  
from said Jas. Harris.

Ques. 7 I dont know whether Gion paid  
any thing or not. I do know that  
Harris & wife were grumbled about  
the fact that I had a loss of a part  
of the farm, and my mother to pacify  
them, sold over to them the  
part lying on the south side of the  
creek. Gion took possession of the  
land lying south of the creek immediately  
after he purchased from James Harris  
& wife.

Ques. 8 You have spoken of your mother  
selling her rights in said farm to  
J<sup>rs</sup> Smith, please state what ~~part~~  
were the rights sold, and on what  
portion of said land did she sell  
her rights to said Smith.

Ans. 8 I know she sold her right on some  
land on the north of the creek, but



I do not know whether she did or  
not on the south of the creek

Referred

State whether or not James Harris  
ever reduced to possession any  
part of the James Newman farm as  
being the share of his wife in the  
land

Ans None that I know of.

2 Was Harris' possession as a renter  
or by license or leave of your mother  
or as one claiming a right to the pos-  
session in his wife.

Ans I can't just say, but I think he was  
there by leave of my mother.

I further this deponent doth not  
J. L. Newman

Virginia, Lee County to-wit  
J. W. K. Hopkins, Notary Public  
for Lee County Va hereby certify  
that the foregoing depositions  
were duly taken, sworn to & sub-  
scribed before me at the times  
& places mentioned therein & in  
the caption thereto & for the  
purposes in the caption stated.

I further certify that each of  
the above witnesses claimed one  
day's attendance & that G. W. Russell  
paid to each of 50 ¢, total \$3.<sup>50</sup>.  
Time of taking depositions 6 <sup>2</sup>/<sub>3</sub> hours



at 75¢ per hour = \$5.<sup>00</sup> which  
has been paid to me by Geo Russell.

Given under my hand this  
July 7, 1894

W. K. Hopkins  
Notary Public Lee Co, Va



Pennington Gap Imp Co.  
vs } Depositions  
for  
G. W. Russell et al

Witness fees pd  
by G. W. Russell 3.50

Pd to Notary  
public by G. W.  
Russell

5.00

Tax

~~8~~ 8.50

Received by mail in good  
condition February the 8th 1894  
and filed on the same day  
A. B. Munsey  
Clerk



1 Pennington Gap Impt Co

2 vs } Affidavit

3 Geo. W. Russell et al

4 This day Geo. W. Russell personally  
5 appeared before me in Lee County,  
6 Virginia, and therein made oath  
7 in due form of law as follows:

8 Affiant states that there are  
9 several facts relative to the alleged  
10 possession of the husband of Lucretia  
11 Harris of the land in controversy in  
12 the above styled suit and relative  
13 to the age of the heirs of said  
14 Lucretia Harris, also as to the  
15 date of the death of said Lucretia  
16 Harris, which affiant is advised  
17 by his counsel are material and relevant  
18 to his defence in this cause, and without  
19 knowing which he can not safely at  
20 present answer the bill in said cause.

21 Further affiant states that he has  
22 made diligent efforts to know  
23 said facts in order to be able  
24 to answer said bill at this present  
25 term of Court; but so far without  
26 success; but that within a month  
27 or so he is satisfied that he can  
28 ascertain the truth as to the above  
29 facts and will then be ready to answer  
30 in this cause.

31 Given under my hand this  
9th day of Nov. 1893

32 A. B. Munsey Clerk



Pennington Gap Lumber Co  
vs } Affidavit

Geo. W. Russell et al

Filed in open Court  
Nov 14, 1893

J. S. Hyatt  
D. Clerk



Virginia

At an intermediate term of the circuit  
superior Court of Law and Chancery continued and  
held for Lee County at the Court house  
thereof on Wednesday the 25<sup>th</sup> day of November  
1846

The last will and testament of James  
Newman deceased was proved by the  
oaths of John Crabtree Sr and John C  
Burk witnesses thereto and is ordered to  
be recorded

R M Hamblen clk

In the name of God Amen, August the 20<sup>th</sup>  
1846. I James Newman of Lee County and  
State of Virginia being in low State of  
health, but of sound mind, do declare  
this my last will and testament revoking  
all others & in manner and form following  
that is to say, I give and bequeath to my  
Son Wayman he being about 33 years of  
age and for reasons not assigned, a Sorrel  
mare called Pat. And after all my just debts  
is paid. I will that my wife Caty take  
the plantation with all the property goods and  
Chattels thereunto belonging. in order she  
may be enabled to raise the children.  
if she remain unmarried or in my name  
untill the youngest child (Polly) shall



be of lawful, and I will that she my  
wife shall give to any or any one of the  
Children who may marry, a horse and  
Saddle and other necessities for house  
keeping if she can afford or spare the  
same making those who may marry  
equal in property, and I will & do re-  
quest my Brother Jefferson Harsh who  
resides in Wythe County, and John E Burk,  
to attend to the affairs of my estate in all  
Convenient opportunities; and see to the  
affairs of the Plantation and property, and  
they receive Compensation for the same rea-  
sonable and if at any time it is required  
by law or any means whatever to make sales  
I do appoint them to execute the same, and  
further more. I do will that when all my  
Children mine in all shall be made equal  
in property, married and single from first  
to last; and as to the plantation if they agree  
in the division thereof well, if not sell and  
then divide equal and I here name mine  
Children (first Wayman second, Lincree, third  
James Jefferson forth Harriet fifth Andrew Jack-  
son Sixth Patterson 7th Joseph 8th Samuel as  
above Polly, Signed in presence of

John Brabtree Sn

John E Burk

A copy Teste

ATB Munsay clerk

Will of Jas. Newman  
Sept 1841  
No 1



This deed made the 23. day of February in the Year 1867 between Nimrod C. Ely and Mary his wife and Chadwell B. Howard and Elizabeth his wife of the County of Lee and State of Virginia of the first part, and Patterson Zion, of the County and State aforesaid of the other part. Witnesseth: that whereas the said Patterson Zion, Nimrod C. Ely and Chadwell B. Howard, having heretofore purchased a certain tract or parcel of land from the heirs of James Newmon deceased, said heirs having sold and conveyed their whole undivided interests in said tract of land to the parties aforesaid. And the said parties <sup>having</sup> by agreement divided said tract of land. Now therefore in consideration of the premises and in further consideration of the sum of one dollar in hand paid the receipt whereof is hereby acknowledged, the said Nimrod C. Ely and Mary his wife and Chadwell B. Howard and Elizabeth his wife, do grant, bargain, and release unto the said Patterson Zion, all of their right, title, and interest in and to the following tract or parcel of land, lying and being in Lee County Virginia on Lane Creek. Being part of said tract purchased from James Newmon's heirs, and bounded as follows: Beginning at 2 beeches on the South side of said Creek; Thence S 29 E 28 poles to a Sugar tree; Thence S 50 W 42 poles to a Poplar & Gum Thence 21 poles to a cucumber near the Creek; Thence S 49 W 82 poles to a Gum & dogwood corner to Burk's land & north line thereof N 40 W 16  $\frac{1}{2}$  poles to the middle of said Creek & down <sup>with</sup> the middle of said Creek as it meanders & with said Howard's line 154 poles to said Howard's & said Ely's corner opposite the mouth of a branch



thence with said Ely's line S 60 E 15 poles to the  
beginning. Containing 26 acres more or less.  
And the said Nimrod C. Ely, and Mary his wife  
and Chadwell B. Howard and Elizabeth his  
wife, do Covenant with the said Patterson Zion  
that they will Warrant Generally the land  
hereby conveyed. Witness the following signatures  
and Seals



Nimrod C. Ely Seal  
Mary <sup>his</sup> Ely Seal  
C B Howard Seal  
Elizabeth P. Howard Seal

See County Court, Clerk's Office, the 5th day of September 1867.

This Indenture of bargain and sale for land between  
Nimrod C. Ely and Mary, his wife, Chadwell B. Howard  
and Elizabeth, his wife, of the first part, and Patterson  
Zion of the other part, being duly stamped, was this day ac-  
knowledged before me by the said Nimrod C. Ely and  
Chadwell B. Howard to be their act and deed; and  
Mary Ely, wife of the said Nimrod C. Ely, and Elizabeth  
Howard, wife of the said Chadwell B. Howard, being  
examined by me privily and apart from their said husbands,  
and having the deed aforesaid read to, and fully explained  
to each of them, each acknowledged the said writing to be  
their act and deed, and declared that they had willingly  
executed the same, and did not wish to retract it,  
and the said deed is admitted to record the same  
being duly stamped;  
Henry J. Morgan Clerk



<sup>C.B. 222</sup>  
Patterson Zion

From } Deed  
Nimrod C. Edg & wife  
& others.

Recorded in Deed Book  
No 10 page 518.

Henry J. Morgan Clk.

Defts Exhibit  
No 2

Pennington Gas Light Co

vs }  
G. W. Russell et al

Fuller made out



Deed 1313  
Q 531

This Indenture of bargain ~~the~~ Sale made and entered into this the 23<sup>rd</sup> Day of October 1857 by and between Willis Morris & Harriet Morris of the first part of the County of Carter & State of Kentucky and Patterson Newnan of the County & State aforesaid. Witnesseth the party of the first part hath this Day bargained & sold unto the party of the second part their interest in the form of James Newnan Deceased lying and being in Lee County & State of Virginia on Camp Creek the land which Harriet Morris heirs from her father's estate for which the party of the second part is to have & to hold the interest Harriet Morris with all its appurtenances forever hath this Day bargained & sold & delivered & conveyed unto the party of the second part all her right title and interest in the above named land for which the party of the second part is paid unto the party of the first part the sum of three hundred Dollars the receipt whereof is hereby acknowledged by the party of the first part in testimony whereof we have hereunto set our hands and ~~fixed~~ our seals this the 23 Day of October 1857.



Att M. J. Watson

Willis Norris *Seal*  
Horriet Norris *Seal*

State of Kentucky }  
Carter County }

I M. J. Watson Deputy for  
E. P. Davis Clerk of the County Court in  
and for the County aforesaid do certify  
that this Deed from Willis Norris  
& Horriet Norris to Patterson New-  
man was produced to me in my  
office on the 22<sup>nd</sup> Day of January 1868  
and the said Norris & wife acknow-  
ledged there Signatures to be ~~the~~  
act and Deed hands and Seals for the  
purpose therein mentioned Horriet  
Norris wife of Willis Norris was  
examined by me separate and  
part from her husband and she  
on her own free will and Consent  
acknowledged her signature to be  
her act & Deed hand & seal all of which  
is Certified to the Clerk of the County  
of Lee County Virginia for record  
where the land is given under  
my hand this the 22<sup>nd</sup> Day of January  
1868.

Virginia

Att M. J. Watson De  
for E. P. Davis Clk



Virginia

At a court of quarter session begun  
and held for Lee County at the Court  
house thereof on Monday the      day  
of August 1858 This indenture of  
Morgan and sale for land between  
Willis Morris & Harriet Morris his  
wife of the one part and Patterson  
Stewman of the other part was adm-  
-itted to record upon the certificate  
of the clerk of the county Court of  
Carter County in the State of  
Kentucky.

Teste      H. J. Morgan C.

Virginia Lee County to wit:

I, S. V. F. Richmond Clerk of the County  
Court for the County aforesaid  
in the State of Virginia, do  
certify that the foregoing is  
a true transcript from the records  
in my office, given under my  
hand this the 11<sup>th</sup> day of Novem-  
ber 1873

Teste: S. V. F. Richmond Clerk



Willis Homnis trustee  
To 3 Copy Deed  
Patterson Newman

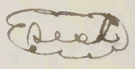


United States  
M. N. Nov. 28 1865  
Duty Revenue

This Indenture of bargain made and entered into by and Between Mary Newman of the County of Foster and State of Kentucky party of the first part and Joseph Newman of the aforesaid County and State party of the second part: Witnesseth that the party of the first part has for and in consideration of the sum of five Hundred Dollars Lawful money of the U. S. to be paid by the 15<sup>th</sup> of January 1866 for which the party of the second part executed his Note the receipt of which is hereby acknowledged. The said party of the second part has this Day granted Bargained and sold, and by these presents do grant bargain sell assign and convey unto the said Joseph Newman all her estate in and to the real estate, or lands owned by her father James Newman deceased lying and being in the County of Lee and State of Virginia being the same land on which the said James Newman lived and Died living on the waters of Loud Creek County of Lee Together with all and singular the opance and her inheritance thereto belonging or in any wise appertaining



thereunto together with the reversions  
and reversions remainders and remain-  
ders, rents, issues and profits  
thereof. And all the estate, rights, titles  
and interests Dower and rights of  
Dower, possession, claims and dem-  
~~and~~ whatsoever of the party of the  
first part as well in law as in  
equity of law and to the above de-  
scribed possessions and every part  
or parcel thereof together with the  
~~apportionment~~ To Have and to Hold all  
the above described estate and interest  
of the said Mary Newman in and to  
the estate of her said father James  
Newman Deceased, And the said Mary  
Newman will forever warrant, defend  
generally the estate and lands hereby  
conveyed unto the said Joseph Newman  
his heirs assigns administrators.  
and ~~Executors~~. In witness whereof  
the said Mary Newman have hereunto  
set her hand and seal this 28<sup>th</sup> Day  
of November 1865,

Mary Newman 



Commonwealth of Kentucky }  
County of Carter

I Elias P Davis Clerk of  
the County Court of Carter County do certify  
that Mary Newman whose name is and  
to the above writing bearing Date of the  
28th November 1865 Did personally  
appear before me and acknowledge the  
same to be her act and Deed. Given  
under my hand this 28th Day of November  
1865.

Elias P Davis ~~Clerk~~ Clerk  
County Court

By Oliver Miller Deft.

Virginia.

In the Clerk's office of the County  
Court of Lee County the 16th Day of February  
1866. The foregoing Indenture of Bargain  
and sale for land between Mary Newman  
of the one part and Joseph Newman of the  
other part. was this admitted to record  
upon the Certificate of Elias P Davis Clerk  
of the County Court of Carter County  
Kentucky:

Teste Henry J Morgan Clerk  
A Copy Teste D. D. F. Richards  
Clerk



Mary Newman  
To } Copy Deed

Joseph Newman  
~~\_\_\_\_\_~~  
Record Deed Book  
No 15. Page 324  
~~\_\_\_\_\_~~

C.F. 90¢



This Deed made this the 28<sup>th</sup> Day of January A.D. 1891  
 by Richard Morris Sarah Madden (Nee Morris) ~~born~~  
 Jesse. Nancy E. Jesse. (Nee Morris) Charles L. Salyer  
 and Francis M. Salyer (Nee Morris) heirs at law  
 of Lucretia Morris (Nee Lucretia Newman of Carter  
 County Ky of the first part to the Cummings Gap  
 Improvement Company a corporation organized  
 and existing under the laws of Virginia of the second part  
 Witnesseth that whereas that heretofore in the lifetime  
 of said Lucretia Morris to wit: on the second Day  
 of December A.D. 1857 the said Lucretia Morris and  
 her husband James A. Morris sold and conveyed to  
 Patterson Gion all their right title and interest  
 both legal and equitable that they then had or right  
 afterwards acquire in and to ~~the~~ farm on which James  
 Newman the said Lucretia's father in his life time lived  
 and whereas the certificate of acknowledgement to said  
 Deed by said Lucretia Morris is not after the form  
 and requirement of the laws of Virginia and whereas  
 on the death of said James Newman he left surviving  
 him a widow and nine children as his heirs at law  
 and whereas after the death of the said James Newman  
 one of his sons who was living at the time of said  
 James Death to wit: Waymen Newman died ~~unmar-~~  
~~ried~~ <sup>testate</sup> ~~intestate~~ and without issue leaving surviving  
 him as his heirs at law his Mother and eight brothers  
 and Sisters now in consideration of the premises  
 aforesaid as well as for and in consideration of the



Sum of Three hundred and thirty Dollars to the parties of the first part in hand paid the receipt of which is hereby acknowledged the said parties of the first part do and each of them doth hereby give grant bargain sell and convey their interest divided or undivided interest both legal <sup>and</sup> equitable of to and in a certain tract or parcel of land lying and being in Lee County Virginia on the Cane Creek adjoining the lands of John E. Burk Dillard Graham George W. Russell and others and being the entire interest of said first parties in the real estate of James Newman Deceased and Newman Newman deceased situated as aforesaid and the whole of said Newman farm is bounded as follows to wit: Beginning at two beeches on the south side of said Cane Creek thence S 29° E 28 poles to a Sugar tree thence S 50° W 42 poles to a poplar & gum thence 21 poles to a cucumber near a creek thence S 49° W 82 poles to a gum and Dogwood Corner to Burks land and with a line thereof N 40° W 16 1/2 poles to the middle of said creek thence continuing with said Burks line from the creek N 37° W 1650 feet to a rock thence Northwesterly and continuing with the original Burk & Newman line to a corner of line of Dillard Graham's land thence with his line easterly to a stake thence continuing with his lines & fence N 61° E 298 1/2 feet N 58° 10" E 415 feet N 57° 10" E 535 feet to a Cherry tree N 52 1/2° E 587 feet to the Gion land thence with

a line of the same and fence S 37 1/2° E 365 feet S 39° E 118 feet S 36 3/4° E 355 feet to a corner of the George W. Russell land thence with a line of the same S 37° E 1125 feet to a stake in the middle of Cane Creek by a large Sycamore and ash thence with the various meanderings of Cane Creek to the Beginning. To Have and to Hold said parties of the first parties undivided interest in the above described tract or parcel of land unto the said Penningtons Gap Improvement Company its successors and assigns for ever in fee simple and the said parties of the first part do and each of them doth hereby Covenant and agree with the said party of the second part its successors and assigns to warrant generally the title to their said interest in said land that the same is free from all incumbrances that said second party shall have quiet and peaceable possession of the same: that they have lawful right to convey the same in fee simple and that they will execute such further assurances of title as may be requisite to make the same sure and complete. Witness the following Signatures and Seals this the Day and Year first above written

Nancy E. Jesse  
 Owen Jesse  
 Francis M. Salyer  
 Charles L. Salyer

(Seal)  
 (Seal)  
 (Seal)  
 (Seal)



Richard Harris et al  
to  
copy  
deed  
Pomeroy & Co. 1. 2

Richard Harris  
Sarah <sup>the</sup> Madden

Seal  
Seal

Witness

C. M. Ervin

Richard Harris

C. M. Ervin

Rich Harris

I C. M. Ervin a Notary Public in and  
for the County of Carter and State of Kentucky do certify  
that Richard Harris Sarah H. Madden Leven  
Sussee Nancy Gossee Charles Salyer and Frances  
M. Salyer whose names are signed to writing above  
bearing date on the 28<sup>th</sup> Day of January 1891  
have acknowledged the same before me in my  
County aforesaid. Given under my hand this 17  
Day of February A. D. 1891.

C. M. Ervin N. P. C.,  
Ky

Notary  
Public

Carter Co Ky

Virginia Lee County to wit:

In the office of the clerk of the  
the said County the 19<sup>th</sup> Day of February 1891 this  
Deed was presented and together with the certif-  
icate thereto annexed was admitted to record

Test: John R. Gibson Clerk

A Copy - Test: D. W. F. Richmond Clerk



1 This Deed made the 2<sup>nd</sup> Day of December  
Deed Book in the year 1857 Between James Morris  
13-521 and Lucretia his wife of the County of  
2 Lee and State of Virginia of the one Part  
3 Patterson Zion of the & State aforesaid of  
4 the other Part Witnesseth that in consider-  
5 ation of Fifteen hundred Dollars current  
6 money two hundred in hand paid and  
7 six hundred Dollars by the 1<sup>st</sup> January  
8 1858 and Seven hundred Dollars by the  
9 1<sup>st</sup> January 1859 with interest on said last  
10 mentioned sum from the 1<sup>st</sup> January 1858  
11 the said Morris and Lucretia his wife do grant  
12 unto the said Patterson Zion the following des-  
13 cribed tracts or Parcels of land - one lying  
14 on Cane Creek ridge in said County of Lee  
15 being the same tract or Parcel of land the  
16 said Morris bought of Alfred Crockett & wife  
17 and bounded as follows Beginning at a  
18 large Spanish oak and two beeches near said  
19 Zions Mill corner to John Gilley's land & with  
20 lines thereof S 25 E 28 Poles to a beech and Lym  
21 Sapling on the top of said S 80 W 86 poles to  
22 a chestnut thence South 17 1/2 poles to a Stake  
23 in said Morris field on a line of a tract  
24 of land sold by said Morris to said Gilley  
25 the old Fisher line & with the same S 79 W 26  
26 poles passing a corner of said tract at 142  
27 poles & with John Porsons line the same course  
28 to a Stake & poplar sapling in John E Burks  
29 line & with the same N 49 E 103 poles passing  
30 said Burks corner & with Newman's line to a  
31  
32



1 gum near Cave Creek corner to Newman's land  
2 and with lines thereof S 52 E 20 poles to a pop  
3 lar and gum at the foot of a ridge N 50 E  
4 137 poles passing said Newman's corner with  
5 said lines to a maple and beech thence  
6 N 87 E 63 poles to the beginning supposed to  
7 contain 109 acres without further measur  
8 ment at the sum of twelve hundred Dollars  
9 of the above named sums. the other tract or  
10 parcel being all the right title and inter  
11 est both legal and equitable which the  
12 said James Harris and Lucretia his wife  
13 formerly Lucretia Newman now have  
14 or heretofore may have in and to a certain  
15 tract or parcel of land lying on Cave Creek  
16 as or of the heirs at law of James Newman  
17 Deceased it being their undivided interest  
18 the tract of land upon which the said  
19 James Newman Deed lived in his lifetime  
20 and disposed by Will and the same upon  
21 which his widow now resides.

22 The first named tract convey by this Deed  
23 is conveyed subject to a lease that William  
24 Hughes Fur holds upon the same according  
25 to the article of agreement between him  
26 and the said Harris. The said James Harris  
27 and Lucretia his wife warrant Generally  
28 the property hereby conveyed. Witness  
29 the following signatures and seals the day  
30 and year above written.

31 James<sup>at</sup> Harris Seal  
32 Lucretia<sup>her</sup> Harris Seal  
mark



1 Lee County Clerks Office the 3<sup>rd</sup> Day of December  
2 1857. This Indenture of bargain and sale  
3 for land between James A Harris & Lucretia  
4 his wife of the one part and Palerson Goin  
5 of the other part was acknowledged before  
6 me (she the said Lucretia being first priv-  
7 ily examined as the law directs and  
8 admitted to record.

9 J. P. Morrison D.C.

10 Virginia Lee County - To wit:

11 J. S. V. F. Richmond Clerk of the County  
12 Court of county aforesaid, in the State  
13 of Virginia, do certify that the foregoing  
14 is a true transcript from the Records  
15 in my office. Given under my hand  
16 this the 4<sup>th</sup> day of November 1893

17 Test J. S. V. F. Richmond Clerk  
18  
19  
20  
21  
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25  
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27  
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29  
30  
31  
32



James Morris & wife  
to 3 Copy Deed.

Patterson Zion

J Gap Dist Co  
Fees \$2.00



This agreement made this 28<sup>th</sup>  
day of May 1894 by & between the  
Pennington Gap Improvement  
Co of the first part and Geo  
W Russell of the second part;  
Witnesseth: By way of compromise  
& settlement of all matters in dif-  
ference between said parties it  
is hereby agreed:

1st For \$400, \$200 to be paid cash  
& the balance in 3 months with  
interest, said 1st party is to con-  
vey to 2d party all its interest  
in the 26 acre tract described  
in the papers in the chancery  
suit of Pennington Gap Impt. Co  
vs Geo W Russell et al, as expressed  
in a deed this day drafted to be  
executed by said first party.  
2d Said suit & the cross suit  
of Geo W Russell vs the Pennington  
Gap Impt Co are to be dismissed,  
each party paying his own  
costs & no statutory attorney fees  
to be taxed.

Witness the following signatures  
The Pennington Gap Improvement Company  
By E. W. Pennington and

Geo. W. Russell



Comprocase  
Agreement  
Pennington Gap Imp Co

G W Russell



To *The Pennington Gap Improvement Company*

Take notice, that on the *6<sup>th</sup>* day of *Febr'y*, 189*4*, at the office of residence of *G. W. Russell*, in the town of *Pennington Gap Va*, between the hours of 9 o'clock a. m. and 6 o'clock p. m. of that day, I shall proceed to take the depositions of *G. W. Russell, Susan Garrison, J. M. Zion, J. F. Skaggs, A. J. Newman, Mrs. J. Newman, Jas Jeff. Newman, Mrs. J. Keibman, J. Burke and others* to be read in evidence in my behalf in the suit <sup>& cross suit</sup> depending in the *Circuit* Court of *Lee* County in which *you are plaintiff & cross defendant* ~~Plaintiff~~ and *G. W. Russell et al* are *defts & G. W. Russell cross complainant*

~~Defendants~~, and if from any cause the taking of said depositions be not commenced on that day, or if commenced, if they be not completed on that day, the taking of said depositions will be adjourned and continued from time to time and place to place until they are completed.

Respectfully,

*G. W. Russell*  
*by counsel*



Original

Served within by  
delivering a true  
copy hereof in Lee  
County, Va on ~~the~~ 18<sup>th</sup>  
day of January 1844  
to H. J. Morgan,  
who is President  
of the Pennington  
Saw Improvement  
Company, & who  
resides in Lee  
County, Va.

Given under  
my hand.

C. E. Flannery  
Sheriff Lee Co. Va



# The Commonwealth of Virginia,

To The Sheriff of Lee County Greeting:

WE COMMAND YOU TO SUMMON

*G. W. Russell Emmett Russell*

*Dora Eda Russell and Rando L Russell*

to appear at the Clerk's office of the Circuit Court of Lee County, at the Court House, on the first Monday in .....

*October*

next, being rule day to answer a bill in Chancery exhibited in our said Court against

*Them*

by *The Pennington Gap*

*improvement Company an incorporation*  
*organized and doing business in the State of Virginia*

And have then and there this writ.

Witness, *A. B. Munsey* Clerk of said Court at the Courthouse.

This *4th* day of *September* 18*93*, in the 11*8th* year of the Commonwealth.

*A. B. Munsey* Clerk.

A Copy Teste.....Clerk.



Pennington Gap Impt Co  
vs) Spa In Chcy  
G. W. Russell et als

---

To 1st Oct Rules 1893

Executed by  
Delivering a true  
office copy of  
the within sum

to G. W. Russell  
Erminette Russell  
Dora Fida Russell  
& Rando G. Russell  
September 13 1893

L. M. Wade F. S.  
for C. C. Filanary  
S. L. Co.



# The Commonwealth of Virginia,

To the Sheriff of the County of Lee, Greeting:

WE COMMAND YOU, That you summon

*Henry J. Morgan President of  
The Pennington Gap Improvement Company*

to appear at the Clerk's Office of the Circuit Court of the County of Lee, at the rules to be held for the said Court on the *Third* Monday in *February*, 189*4*, to answer a <sup>*cross*</sup> bill in Chancery, exhibited against *him* in our said court by *George W. Russell*  
*et al*

And have then there this writ. Witness, A. B. MUNSEY, Clerk of our said Court, at the court-house, the *13<sup>th</sup>* day of *January*, 189*4*, and in the 11 *8<sup>th</sup>* year of the Commonwealth.

*A B Munsey* Clerk.



Jan the 17. 84

George W. Russell et al

vs. {

SUBPENA  
IN CHANCERY.

The Pennington Gap Imp't Co

Bullitt & McDowell p. q.

To 2<sup>nd</sup> February Rules 1894

Circuit Court.

Executed Jan the 17. 1884  
by delivering and office  
copy of the within summons  
to Henry J. Morgan  
President of the Pennington-  
gap improvement company  
C. E. Alary S. L. C.



The Commonwealth of Virginia,

To the Sheriff of the County of Lee, Greeting:

<sup>again</sup>  
WE <sup>1</sup>COMMAND YOU, That you summon

*H. C. Joslyn President of  
the Pennington Gap Improvement Company*

to appear at the Clerk's Office of the Circuit Court of the County of Lee, at the rules to be held for the said  
Court on the *Third* Monday in *February*, 1894, to answer a <sup>cross</sup> bill in Chancery,  
exhibited against *him* in our said court by *George W. Russell*  
*et al*

And have then there this writ. Witness, A. B. MUNSEY, Clerk of our said Court, at the court-house,  
the *9th* day of *February* 1894, and in the 11 *8th* year of  
the Commonwealth.

*A Copy Teste*

*A B Munsey* Clerk.

*A B Munsey Clerk*



US.

{

SUBPŒNA  
IN CHANCERY.

p. q.

To..... Rules,  
Circuit Court.



The Commonwealth of Virginia,

To the Sheriff of the County of Lee, Greeting:

<sup>again</sup>  
WE COMMAND YOU, That you summon

*H. C. Joslyn President of the  
Pennington Gap Improvement Company*

to appear at the Clerk's Office of the Circuit Court of the County of Lee, at the rules to be held for the said  
Court on the *3rd* Monday in *February*, 189*4*, to answer a <sup>cross</sup> bill in Chancery,  
exhibited against *him* in our said court by *George W. Russell*  
*et al*

And have then there this writ. Witness, A. B. MUNSEY, Clerk of our said Court, at the court-house,  
the *9th* day of *February*, 189*4*, and in the *11* *8th* year of  
the Commonwealth.

*A. B. Munsey* Clerk.



George W Russell et al

vs. }

SUBPENA  
IN CHANCERY.

The Pennington Gap. Imp. Co

Bullitt McDowell p. q.

To 2<sup>nd</sup> February Rules 1894

Circuit Court.

Not executed not  
needed in time this  
March the 5. 1884  
C. E. Blunage 8256



# The Commonwealth of Virginia,

To the Sheriff of the County of Lee, Greeting:

<sup>again</sup>  
WE <sup>^</sup>COMMAND YOU, That you summon Pennington Gap Impt. Co.

to appear at the Clerk's Office of the Circuit Court of the County of Lee, at the rules to be held for the said Court on the 3rd Monday in April, 1894, to answer a <sup>Cross</sup> bill in Chancery, exhibited against It in our said court by George W. Russell

And have then there this writ. Witness, A. B. MUNSEY, Clerk of our said Court, at the court-house, the 5th day of March 1894, and in the 11 8th year of the Commonwealth.

A. B. Munsey Clerk.



ex March 14 1894

GW Russell

US.

{

SUBPENA  
IN CHANCERY.

on Cross-bill

Pennington Gas Impt Co

W McDowell Jr p. q.

To

2d April

Rules,

Circuit Court.

Executed in Lee  
County, Va, by delivering  
an office copy of within  
to H.C. Joselyn who  
is President of within  
named Pennington Gas  
Improvement Co, who  
resides in Lee County.  
This 5<sup>th</sup> day of March 1894

A.C. Blaney Sheriff Lee Co, Va